

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TERVES, LLC,)	CASE NO. 1:19 CV 1611
)	
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
v.)	
)	
YUEYANG AEROSPACE NEW)	<u>MEMORANDUM OPINION</u>
MATERIALS, CO., LTD., <i>et al.</i> ,)	<u>AND ORDER</u>
)	
Defendant.)	

This matter is before the Court on Terves' Motion to Tax Costs and Award Prejudgment Interest, submitted pursuant to Fed. R. Civ. P. 54, and 28 U.S.C. § 1920, and 35 U.S.C. §284. (ECF #213). Defendants have not filed any timely opposition to Plaintiff's request.

COSTS

Rule 54(d)(1) of the Federal Rules of Civil Procedure provides that "costs other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs." FED. R. CIV. P. 54(d)(1). "This language creates a presumption in favor of awarding costs, but allows denial of costs at the discretion of the trial court." *Soberay Mach. & Equipment Co. v. MRF Ltd., Inc.*, 181 F.3d 759, 770 (6th Cir. 1999) (quoting *White & White, Inc. V. American Hospital Supply Corp.*, 786 F.2d 728, 730 (6th Cir.1986)). This Court awarded costs to the Plaintiff as part of its judgment following the jury verdict. (ECF #203).

28 U.S.C. § 1920 sets forth the expenses that may be taxed as costs:

- (1) Fees of the clerk and marshal;
- (2) Fees of the court reporter for all or part of the stenographic transcript necessarily obtained for use in the case;
- (3) Fees and disbursements for printing and witnesses;
- (4) Fees for exemplification and copies of papers necessarily obtained for use in the case;
- (5) Docket fees under 1923 of this title;
- (6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

Terves has requested compensation in the amount of \$35,195.49 for costs incurred under sections 1, 2, 4, and 6 of Section 1920. It electronically submitted a bill of costs including a declaration, made by Terves' attorney under oath, attesting (1) that the requested costs are correct and were necessarily incurred in the action; and, (2) that the requested fees were charged for services actually and necessarily performed in furtherance of the case. (ECF #213-2, Ex. A). Defendants have offered no objection or opposition to the amounts requested. Therefore, the Court finds these costs fees to be reasonable and necessary, and properly taxed to the Plaintiff in this case.

PREJUDGMENT INTEREST

In patent infringement cases, “prejudgment interest should ordinarily be awarded where necessary to afford the plaintiff full compensation for the infringement.” *Schwendimann v. Arkwright Adv. Coating, Inc.*, 959 F.3d 1065, 1076 (Fed. Cir. 2020)(quoting *General Motors Corp. v. Devex Corp.*, 461 U.S. 648, 654 (1983)). Interest should typically be awarded from the date of the infringement to the date of the judgment. *Nickson Indus., Inc. v. Rol Mfg. Co.*, 847 F.2d 795, 800 (Fed. Cir. 1988).

Terves' damages expert, David A. Haas, calculated prejudgment interest using the prime rate compounded quarterly. The Federal Circuit has long approved using this method for the calculation of prejudgment interest in patent cases. *See, e.g.*, *Studiengesellschaft Kohle, MBH v. Dart Indus.*, 862 F.2d 1564 (Fed. Cir. 1988). Using this rate, Terves' calculated an amount of \$51,297.00, as the total prejudgment interest for a damages period from June 25, 2019 through June 30, 2021. Defendants have offered no opposition to this calculation.

For the reasons set forth above, Plaintiff, Terves' Motion to Tax Costs and Award Prejudgment Interest is GRANTED. (ECF #213). A total of \$35,195.49 in costs and fees shall be added to the judgment previously issued on April 28, 2022, (ECF #203). Prejudgment interest in the amount of \$51,297.00 is also awarded. When these amounts are added to the jury's verdict of \$707,207.00, the total judgment amount awarded in favor of Plaintiff and against Defendants Ecometal Inc., and Nick Yuan is \$793,699.49.

IT IS SO ORDERED.



Judge Donald C. Nugent
UNITED STATES DISTRICT JUDGE

DATED: June 27, 2022